

9/8/98

Office Action Summary

Application No.	68/446,613	Applicant(s)	RHOADS
Examiner	T.L. Goss	Group Art Unit	2721

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—**Period for Response**A SHORTENED STATUTORY PERIOD FOR RESPONSE IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a response be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for response specified above is less than thirty (30) days, a response within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for response is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication .
- Failure to respond within the set or extended period for response will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

Responsive to communication(s) filed on _____.

This action is **FINAL**.

Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 1 1; 453 O.G. 213.

Disposition of Claims

Claim(s) 1 - 5 is/are pending in the application.

Of the above claim(s) _____ is/are withdrawn from consideration.

Claim(s) _____ is/are allowed.

Claim(s) 1 - 5 is/are rejected.

Claim(s) _____ is/are objected to.

Claim(s) _____ are subject to restriction or election requirement.

Application Papers

See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

The proposed drawing correction, filed on _____ is approved disapproved.

The drawing(s) filed on _____ is/are objected to by the Examiner.

The specification is objected to by the Examiner.

The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

All Some* None of the CERTIFIED copies of the priority documents have been received.

received in Application No. (Series Code/Serial Number) _____.

received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____.

Attachment(s)

Information Disclosure Statement(s), PTO-1449, Paper No(s). 6 Interview Summary, PTO-413

Notice of References Cited, PTO-892 Notice of Informal Patent Application, PTO-152

Notice of Draftsperson's Patent Drawing Review, PTO-948 Other _____

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1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shear ('594) in view of Powell et al. ('788).

Shear ('594) discloses a data base usage metering and protection system and method.

With regard to claim 1, Shear ('594) provides for a first digital electrical computer system comprising a first digital electrical computer connected to a first input device, to a first output device, and to a first memory storing a plurality of creator identifiers and creator contact data corresponding to each of the creator identifiers (see figure 1 : 100 and 200); a second digital electrical computer system comprising a second digital electrical computer connected to a second input device and to a second output device, the second digital electrical computer being programmed to encrypt database information, the encrypted database information including one of the plurality of creator identifiers (figure 1 : 200); a third digital electrical computer system comprising a third digital electrical computer connected to a third input device and to a third output device, the third digital electrical computer being programmed to read the encrypted database information to reveal one of the plurality of creator identifiers (see figure 1 : 300); and a network for communicating the revealed one of the plurality of creator identifiers to the first

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digital electrical computer to obtain the creator contact data corresponding to the one of the plurality of creator identifiers from the memory (refer for example to column 1, lines 33-49).

Although Shear ('594) does not specifically state that the data which is automatically downloaded from a plurality of computer sites over the internet is image data with an embedded watermark in a digital photographic image, such image data is well known and widely utilized in the prior art.

Powell et al. ('788) disclose a method and system for digital image signal pictures which provides for automatically downloading data, including empirical data sets, from a plurality of computer sites (refer for example to column 1, lines 12-21 and column 2, line 60 through column 3, line 17); for each of a plurality of empirical data sets obtained by the downloading operation, automatically screening same to identify the potential presence of identification data steganographically embedded therein, specifically an embedded watermark in a digital photographic image (refer for example to column 5, line 49 through column 6, line 43); for each of a plurality of empirical data sets screened by the screening operation, discerning identification data, if any, steganographically encoded therein (refer for example to column 6, line 44 through column 7, line 14); and generating a report identifying steganographically encoded empirical data sets identified by the foregoing steps, and the site from which each was downloaded (refer for example to column 1, lines 12-49 and column 5, lines 44-54).

Given the teachings of the two references and the same environment of operation one of ordinary skill in the art at the time the invention was made would have been led in an obvious

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fashion to provide for using image data with an embedded watermark in a digital photographic image for the image signature as taught by Powell et al. ('788) in the Shear ('594) system since both systems are primarily concerned with the usage of and protection of digital data using image signatures. This is a routine design choice which fails to patentably distinguish over the prior art absent some novel and unexpected result.

As to claim 2, Powell et al. ('788) provide for the second digital electrical computer being programmed to automatically detect for a watermark when an image is first examined by the second digital electrical computer (refer for example to column 1, lines 12-49, column 2, line 60 through column 3, line 17, column 5, line 44 through column 6, line 43).

In regard to claim 3, Powell et al. ('788) provide for the second digital electrical computer being programmed to selectively detect for a watermark when an image is examined by the second digital electrical computer (refer for example to column 1, lines 12-49, column 2, line 60 through column 3, line 17, column 5, line 44 through column 6, line 43).

With regard to claim 4, Shear ('594) provides for the network includes the Internet (refer for example to column 1, lines 33-49); the watermark includes information identifying a World Wide Web site (refer for example to Powell et al. ('788) column 1, lines 12-49, column 2, line 60 through column 3, line 17, column 5, line 44 through column 6, line 43), and wherein the third digital electrical computer system is programmed to load a World Wide Web browser and connect to the World Wide Web site in response to the revealed one of the plurality of creator identifiers (refer for example to column 1, lines 33-49).

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As to claim 5, Powell et al. ('788) provide for the watermark includes extended data including at least one member from the group consisting of an organization identifier, a transaction identifier, and an item identifier (see figures 2, 3 and 5 and refer for example to column 1, lines 12-49, column 2, line 60 through column 3, line 17, column 5, line 44 through column 6, line 43

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Shear ('508), ('213) and ('598), Wheeler et al., Rhoads ('292), ('834), ('604), ('763), ('783) and ('426) all disclose systems similar to applicant's.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jose L. Couso whose telephone number is (703) 305-4774. The examiner can normally be reached on Monday through Friday from 7:30 to 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leo Boudreau, can be reached on (703) 305-4706. The fax phone number for this Group is (703) 308-9051 or (703) 308-9052.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-8576.


JOSE L. COUSO
PRIMARY EXAMINER

jlc

August 25, 1998